

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

**No. CV 16-0423 RB/LAM
CR 13-2725 RB**

JOHN ERIC SAPIEN, JR.,

Defendant/Movant.

ORDER TO FILE SEPARATE MOTION

THIS MATTER is before the Court *sua sponte*. On December 2, 2016, the Government filed the *United States' Response to Defendant's Amended Motion to Vacate, Set Aside, or Correct Sentence* (Doc. 19). On July 21, 2016, the Government filed an amended motion for a stay of these proceedings pending the Supreme Court's ruling in *Beckles v. United States* (S. Ct. No. 15-8544). [Doc. 7]. In the Government's response to Defendant/Movant's Amended § 2255 Motion, the Government states that it is renewing its motion for a stay of these proceedings pending the Supreme Court's ruling in *Beckles*, and presents new information regarding the date that Defendant/Movant began serving his federal sentence. *See* [Doc. 19 at 2-4] (section of response titled "Renewed Motion for Stay of Proceedings"). It is not proper for a party to ask for relief in a response to a motion, nor is it proper for a party to submit new information in a response to a motion that is relevant to a different motion. Instead, the Government should have filed a second amended motion for a stay in this case in a separate motion. *See* D.N.M. LR Civ. 7.1(a)

(“A motion must be in writing and state with particularity the grounds and the relief sought.”); D.N.M. Administrative Order 92-88 (May 4, 1992) (“[A]ll practitioners before the Court shall henceforth submit a separate pleading for each matter upon which adjudication or a ruling of the Court is sought.”). Therefore, the Court will require the Government to file a second amended motion for a stay if it would like the Court to consider the information presented in its “Renewed Motion for Stay of Proceedings” contained within its response to Defendant/Movant’s Amended § 2255 motion.

IT IS THEREFORE ORDERED that, **no later than December 9, 2016**, Defendant may file an amended motion for a stay of these proceedings pending the Supreme Court’s ruling in *Beckles*.

IT IS SO ORDERED.


LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE